

## CHAPTER 148.

## PROTECTION OF SCHOOL FUND.

## AN ACT for the better protection of the School Fund.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Iowa,* That the several Boards of Supervisors shall hold and manage the securities given to the School Fund in their respective Counties and also all judgments and lands therein belonging to said fund for the use of said fund; and to that end such Counties shall have power to sue in their own name for the use of said fund, either by the District Attorney, or such other Attorney as such Board shall select, and to do all other acts in relation to the same, necessary for the protection of said fund, and such counties shall be severally liable for all losses upon loans of such fund made in such County after the passage of this Act: *Provided,* that any County may discharge itself from any liability in any case by showing that the alleged loss was not incurred by reason of any default of her officers or by taking insufficient or imperfect securities.

**SEC. 2.** Whenever any portion of the School Fund of this State has been loaned upon real estate security, upon which exists a prior incumbrance, other than for taxes, the several Boards of Supervisors of the respective Counties of this State, shall have authority in their discretion, if they deem it necessary, to remove said prior incumbrance in order that said fund may ultimately realize the money upon said loan, to appropriate so much money out of the School Fund, if any there be within said County, as shall be necessary to remove said incumbrance, *Provided,* said incumbrance shall not exceed one-half the actual cash value of said real estate, and *Provided further,* that said respective counties shall, in such case, be liable for the ultimate payment, within five years thereafter, with ten per cent. interest thereon, of the money so appropriated so to remove said incumbrance.

**SEC. 3.** Such Boards may, when deemed necessary, employ some competent person to examine the securities aforesaid, make abstracts of titles to the lands mortgaged, and make out complete statements thereof for such Boards, and under the direction of said Boards, or a Committee thereof, to procure the renewal of such notes and mortgages, when demanded by persons enti-

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pervisors  
manage  
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Prior incum-  
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Board may  
employ  
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tled thereto, upon such terms as to time and security in all respects as in making new loans. And such agent may with the consent of said Board or Committee take from any person responsible for any loan, any additional security by way of bond or mortgage, or both, in cases where the property mortgaged is inadequate security for the sum loaned, and the applicant shall pay up all interest and procure the written consent of the securities on the note; but in all cases of the continuance of loans, as well as in cases of new loans, abstracts of title shall be presented and filed with the mortgage, which shall show the title to the mortgaged premises is in the mortgagor, free and clear of any incumbrance or debt.

SEC. 4. Any person responsible to the School Fund for any part of the principal thereof, who shall promptly pay all interests and costs (if any) thereon, whether the same may be rendered into a judgment or not, shall be permitted to borrow such principal, upon complying in all respects with the requirements of law relating to new loans. Principal may be borrowed.

SEC. 5. The Clerks of the several Boards of Supervisors in whose county there are outstanding contracts on sale of School Lands, and which contracts are due, shall immediately publish a notice requiring all persons holding any such lands, to at once pay up the amount due thereon, or otherwise make satisfactory arrangements for an extension of time. He shall also give a like notice to all mortgagors to said fund on whose notes either principal or interest is due. Such notices shall be printed for four weeks in a newspaper published in the county, if there be one; if there be none, then in such newspaper published in this State as will be most likely, in the opinion of said Clerk to give notice to all concerned; and a copy of such notice shall be posted for the same time at the outer door of the building in which the last District Court in said County was held. Clerk notify holders of lands, etc.

SEC. 6. In case the person holding lands so contracted or mortgaged, shall neglect to pay the sums due thereon or make an arrangement for an extension of time, within three months from the first publication of such notice, such Board may cause suit to be brought, and prosecuted with the utmost diligence to secure said fund, and in any action in favor of a county for the use of the School Fund, an injunction may issue without bond, and in any such action, where service is made by publication, default and judgment may be entered and enforced without the bond required of individuals. In all such suits the Court shall give the Plaintiff as a part of the costs, such Suit may be brought for amount due.  
Cost of P<sup>r</sup>o<sup>o</sup> Attorney.

an amount as will be a sufficient compensation for the Plaintiff's Attorney in the case.

**Land bid off.** SEC. 7. In case of sales of lands on execution founded on any such mortgage or contract, the Attorney for said Board, or other person authorized by said Board shall bid on behalf of the State, for the use of said fund, such sum as the interests of said fund may require, and if struck off to the State, the same shall be held and disposed of in all respects the same as other lands belonging to said fund, except as hereinafter provided.

**Loans ratified** SEC. 8. Loans from said fund heretofore made to School Districts, are hereby ratified and confirmed.

**Notes, etc., made payable to county.** SEC. 9. All contracts, notes and mortgages given to said fund shall hereinafter be made payable to the county controlling them, but no such contracts, notes or mortgages heretofore, or hereinafter made, shall be invalid, because they are made payable to any other payee, but the same shall be deemed and taken to belong to said County, for the use of the said fund, and suits may be maintained thereon in the name of the said County, with the same effect as if they were drawn payable to the said County.

**Statement transmitted to Auditor.** SEC. 10. The Board of Supervisors shall cause their Clerk annually in the month of June to transmit to the Auditor, a statement of the amount of the permanent School Fund on loan or contract in such County, and all receipts and payments on account thereof: And whenever any loss to said Fund is ascertained, he shall report the particulars thereof to the Auditor, who shall report the same to the General Assembly at its next session thereafter, to the end that an appropriation therefor may be made to pay the interest thereon to said Fund.

**Auditor to report to Gen. Assembly.** SEC. 11. When any lands shall be bid off in behalf of said Fund, the Clerk of the Board of Supervisors may upon the application of any person proposing to buy the same, have the same appraised, on receiving from such applicant, the costs of such appraisal in advance.

**Appraisers appointed.** The said Clerk shall thereupon select three competent, disinterested freeholders, not of kin to the applicant, who shall be acquainted with the value of the land in question, who shall be sworn to appraise the land at such a sum as they would appraise the same in the payment of a just debt, due from a solvent debtor.

**Pay of appraisers.** For such services, such appraisers shall be entitled to fifty cents each, upon signing a certificate of such valuation.

**Clerk may sell.** The Clerk may sell the same at such appraisal, for ready pay, or he may contract for the sale thereof at such

sum; the purchaser paying the interest and costs included in the judgment on which the said land was sold, and the balance in five years with interest, at ten per cent., payable annually, on the first day of January, with at least two sufficient sureties: *Provided*, such appraisal shall be equal to the judgment, interest and costs on which said land was bid in.

If such appraisal be less than the aforesaid sum, the Board of Supervisors may in their discretion authorize the sale at such appraisal, and the Clerk shall in that case report the balance of the judgment as loss to such Fund.

SEC. 12. Upon the full payment for any lands held on account of said Fund, the said Clerk shall certify the fact of sale and payment to the Governor, and said Governor shall issue a patent therefor, whether said lands were of the sixteenth sections, or lands bid in on foreclosure of mortgages. Patent issued.

SEC. 13. Lapse of time shall in no case bar any action brought or to be brought on any contract for any part of the School Fund, nor shall such lapse of time prevent the introduction of evidence in any such action, any provision of Chapter 16 of the Revision of 1860 to the contrary notwithstanding. Lapse of time no bar to action.

SEC. 14. In all cases where the Clerk of the Board of Supervisors is required to take mortgages upon real estate as security for money borrowed, and upon the return of the appraisers thereof, it shall be the duty of the said Clerk to examine the assessment of the said land for the year previous, and should the said appraisal be higher than the said assessment, it shall be the duty of the said Clerk to take the security upon one-half of the assessed valuation thereof. Manner of taking mortgages.

SEC. 15. This act being deemed of immediate importance shall take effect and be in force from and after its publication in the Daily Iowa State Register, and the Daily Des Moines Times, papers published at Des Moines.

Approved April 8th, 1862.

I hereby certify that the foregoing Act was published in the Daily State Register April 19, 1862, and in the Des Moines Times April 19th, 1862.

ELIJAH SELLS, Secretary of State.